

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NATHAN WILSON,

Plaintiff,

v.

Case No. 08-13247
Honorable Nancy G. Edmunds

C/O DANIELS, C/O GUTHRIA, H/O
HEISLER, and H/A RICHARD STAPLETON,

Defendants.

OPINION AND ORDER

Plaintiff Nathan Wilson, a state prisoner, currently confined at Kinross Correctional Facility in Kincheloe, Michigan, has filed a *pro se* civil rights complaint pursuant to 18 U.S.C. § 242. However, Plaintiff has neither filed an application to proceed *in forma pauperis* nor has he paid the \$350.00 filing fee. Additionally, upon review of the court's records, it appears that Plaintiff has "three strikes" within the meaning of 28 U.S.C. § 1915(g); Plaintiff has filed six civil rights cases, which have been dismissed for being frivolous, malicious, or for failing to state a claim upon which relief can be granted. *See Wilson v. C/O Daniels*, No. 08-12802 (E.D. Mich. July 16, 2008) (failure to state a claim); *Wilson v. C. Caldwell*, No. 06-00142 (W.D. Mich. June 6, 2006) (failure to state a claim); *Wilson v. Unknown Pelton*, No. 06-00239 (W.D. Mich. May 24, 2006) (three strikes rule); *Wilson v. William Overton*, No. 05-00082 (W.D. Mich. Sept. 7, 2005) (failure to state a claim); *Wilson v. Ruo McCallough*, No. 05-40027 (E.D. Mich. April 20, 2005) (failure to state a claim); *Wilson v. Klein*, No. 02-00936 (W.D. Mich. Jan. 7, 2003) (failure to state a claim).

As a result of Plaintiff's previous filings, his case falls under the provisions of 28 U.S.C.

§ 1915(g), which states in pertinent part.

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g).

On the basis of the above, the Court orders Plaintiff, within thirty (30) days of this order to: (1) pay the entire civil action filing fee, which is \$350.00, *or*, (2) if he wishes to proceed *in forma pauperis*, to file an application to proceed *in forma pauperis* and show cause, in writing, why his *in forma pauperis* status should not be denied under 28 U.S.C. § 1915(g). If Plaintiff pays his filing fee, the Court will then screen the complaint as required by 28 U.S.C. § 1915A and 42 U.S.C. § 1997e(c). If Plaintiff fails to pay the filing fee or fails to file an *in forma pauperis* application, within the thirty-day period, his case will be dismissed without prejudice. Also, the Court notes that § 1915(g) excepts from this rule cases in which a plaintiff is "under imminent danger of serious physical injury." *See Wallace v. Franklin*, 66 Fed. Appx. 546, 547, (6th Cir.2003); *Chance v. Tennessee*, 47 Fed. Appx. 762, 763 (6th Cir. 2002).

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: July 31, 2008

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 31, 2008, by electronic and/or ordinary mail.

s/Carol A. Hemeyer

Case Manager